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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2010-602**

13 **FELICIA LUCETTE ZION**
14 **AKA FELICIA LUCETTE CLARK**
AKA FELICIA LUCETTE MAUTZ
15 **2907 S. Santa Fe Avenue, Space 46**
San Marcos, CA 92069

A C C U S A T I O N

16 **Registered Nurse License No. 395726**
17 **Public Health Nurse Certificate No. 41457**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
23 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
24 of Consumer Affairs.

25 2. On or about March 31, 1986, the Board of Registered Nursing issued Registered
26 Nurse License Number 395726 to Felicia Lucette Zion aka Felicia Lucette Clark aka Felicia
27 Lucette Mautz (Respondent). The Registered Nurse License was in full force and effect at all
28 times relevant to the charges brought herein and will expire on September 30, 2011, unless

renewed. On or about February 23, 1987, the Board of Registered Nursing issued Public Health Nurse Certificate No. 41457 to Respondent. The Public Health Nurse Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2011, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

"Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

"(a) Considering the denial of a license by the board under Section 480; or

"(b) Considering suspension or revocation of a license under Section 490.

"Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee."

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially

1 related to the qualifications, functions, or duties of the business or profession for which the
2 license was issued.

3 8. Section 493 of the Code states:

4 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
5 the department pursuant to law to deny an application for a license or to suspend or revoke a
6 license or otherwise take disciplinary action against a person who holds a license, upon the
7 ground that the applicant or the licensee has been convicted of a crime substantially related to the
8 qualifications, functions, and duties of the licensee in question, the record of conviction of the
9 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
10 and the board may inquire into the circumstances surrounding the commission of the crime in
11 order to fix the degree of discipline or to determine if the conviction is substantially related to the
12 qualifications, functions, and duties of the licensee in question.

13 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
14 'registration.'"

15 9. Section 2761 of the Code states:

16 "The board may take disciplinary action against a certified or licensed nurse or deny an
17 application for a certificate or license for any of the following:

18 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

19 "...

20 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
21 functions, and duties of a registered nurse, in which event the record of the conviction shall be
22 conclusive evidence thereof.

23 "..."

24 REGULATORY PROVISIONS

25 10. California Code of Regulations, title 16, section 1444, states:

26 "A conviction or act shall be considered to be substantially related to the qualifications,
27 functions or duties of a registered nurse if to a substantial degree it evidences the present or
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potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

“(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

“(b) Failure to comply with any mandatory reporting requirements.

"(c) Theft, dishonesty, fraud, or deceit.

“(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.”

11. California Code of Regulations, title 16, section 1445, states in pertinent part:

“ . . . ”

“(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

“(1) Nature and severity of the act(s) or offense(s).

"(2) Total criminal record.

“(3) The time that has elapsed since commission of the act(s) or offense(s).

“(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

"(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

"(6) Evidence, if any, of rehabilitation submitted by the licensee."

COST RECOVERY

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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FIRST CAUSE FOR DISCIPLINE

(January 16, 2004, Conviction for Grand Theft on December 3, 2003)

13. Respondent is subject to disciplinary action under Code sections 490 and 2761, subdivision (f) in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On or about January 16, 2004, in a criminal proceeding entitled *The People of the State of California v. Felicia Lucette Zion*, in Orange County Superior Court, Harbor Justice Center, case number 04HM00080, Respondent was charged with violation Penal Code section 459-460, subdivision (a), second degree commercial burglary, and violation of Penal Code section 487, subdivision (a), grand theft, misdemeanors. Respondent was convicted by her plea of guilty for violating Penal Code section 487, subdivision (a), grand theft, a misdemeanor and the other count was dismissed.

b. As a result of the conviction, on January 16, 2004, Respondent was sentenced to informal probation for three years, ordered to violate no law, pay various fines and fees, complete 160 hours of community service as directed by the Volunteer Center, to submit to search and seizure by any law enforcement or probation officer, and to stay away from all Robinsons-May locations.

c. The facts that led to the conviction were that on December 3, 2003, a sales assistant for Robinson's May Department Store suspected that Respondent stole a bottle of Chanel Allure perfume. Respondent was then observed walking throughout the store carrying a large plastic Macy's shopping bag and selected several items from the sales floor, removed the soft security tags from the packages and then placed the items into the plastic bag she was carrying. The shopping bag appeared to be empty when she was first monitored, but filled up quickly as Respondent continued to place items into the shopping bag from the sales floor. Respondent was detained by a loss prevention officer as she left the store without paying for any of the items that were in the bag. The police were called and respondent was arrested for violation of Penal Code section 459, burglary.

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1 SECOND CAUSE FOR DISCIPLINE

2 (March 17, 2006, Convictions for Second Degree Commercial Burglary
3 and Petty Theft on March 15, 2006)

4 14. Respondent is subject to disciplinary action under Code sections 490 and 2761,
5 subdivision (f) in that Respondent was convicted of a crime that is substantially related to the
6 qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

7 a. On or about March 17, 2006, in a criminal proceeding entitled *The People of the State*
8 *of California v. Felicia Lucette Zion*, in Orange County Superior Court, Harbor Justice Center,
9 case number 06HM02519 A, Respondent was convicted on her plea of guilty to violation of Penal
10 Code sections 459-460, subdivision (b), second degree commercial burglary, and violation of
11 Penal Code section 484, subdivision (a) - 488, petty theft.

12 b. As a result of the conviction on March 17, 2006, Respondent was sentenced to three
13 years informal probation and ordered to violate no law, serve three days in Orange County Jail,
14 with credit for three days served, complete 100 hours of community service, pay various fines and
15 fees, submit to search and seizure at any time for any reason, and to stay away from Target stores.

16 c. The facts that led to the conviction are that on March 15, 2006, Respondent was
17 observed by Starbucks' employees inside a kiosk of the Target store taking two cups from the
18 display. Respondent was advised that she had to pay for the cups at the kiosk. Respondent told
19 them she would come back later to pay for the cups and placed the cups in her shopping cart.
20 Respondent then proceeded to the auto parts area and was observed as having at least two plastic
21 Target bags in her cart. Respondent then proceeded to the seasonal items aisle and took several
22 Easter items and placed them in her cart. Next she proceeded to the electronics area and placed a
23 music CD and an iPod charger in her cart. Respondent then took a small plastic Target bag out of
24 the bigger Target bag and placed the iPod charger, CD and a votive candle vase into the smaller
25 Target bag. Respondent then began placing the Easter items from her cart into the larger Target
26 bag. Then Respondent went to the front register and took a new plastic Target bag from an
27 unattended register and proceeded to the customer service counter and returned the votive candle
28 vase and CD she had taken from the store by using a receipt dated March 3, 2006, to make the

1 returns of the items. She received \$32.30 for the returns. Respondent attempted to return the
2 iPod charger but was told by customer service employees that it had already been returned at their
3 Aliso Viejo store, so she left the iPod charger at the customer service counter and went to the
4 front registers. She picked up a bottle of water and went to the register with her cart and paid for
5 the bottled water, but did not pay for any of the merchandise she had placed in the Target bags in
6 her cart. Respondent was stopped outside the front entrance of the Target store and was detained.
7 The surveillance cameras inside the store captured Respondent's activities and the value of the
8 items Respondent took totaled \$118.87. Two deputies of the Orange County Sheriff's
9 Department arrived. Respondent admitted taking some things she should not have and stated she
10 "made a stupid decision." Respondent was arrested for violation of Penal Code section 459,
11 burglary, and transported to the Orange County Jail.

12 THIRD CAUSE FOR DISCIPLINE

13 (April 17, 2007, Conviction for Commercial Burglary
and Petty Theft with a Prior Conviction on July 18, 2006 and July 21, 2006)

14 15. Respondent is subject to disciplinary action under sections 490 and 2761,
15 subdivision (f) in that Respondent was convicted of crimes that are substantially related to the
16 qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

17 a. On or about April 17, 2007, in a criminal proceeding entitled *The People of the State*
18 *of California v. Felicia Lucette Zion aka Felicia Lucette Mautz aka Felicia Lucette Clark*, in
19 Orange County Superior Court, Harbor Justice Center, case number 06SF0931 A, Respondent
20 was convicted of two theft crimes by her plea of guilty for violating Penal Code sections 459-460,
21 subdivision (b); 666-484, subdivision (a)-488; 459-460, subdivision (b); and 666-484, subdivision
22 (a)-488, all reduced to misdemeanors pursuant to Penal Code section 17, subdivision (b).

23 b. Respondent was immediately sentenced and placed on three years informal probation,
24 ordered to serve 120 days in Orange County Jail with credit for 3 days served, ordered to violate
25 no laws, submit to search and seizure at any time by any law enforcement or probation officer,
26 use her true name and date of birth at all times, carry valid California driver's license or
27 identification card, disclose terms and conditions of probation when asked by any law
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1 enforcement or probation officer, pay various fines and fees, and stay away from Brighton
2 Collectibles stores. Respondent violated probation and at her probation hearing on April 17,
3 2009, probation was extended for an additional term of two years and Respondent was ordered to
4 serve 90 days in Orange County Jail with the court granting jail stay until June 19, 2009, to run
5 consecutive with sentencing for her conviction in case number 09HM01611, which is outlined in
6 the Fourth Cause for Discipline, below, and the court authorizes supervised electronic
7 confinement.

8 c. The facts that led to the conviction are that on July 21, 2006, at Brighton Collectibles
9 in Mission Viejo, California, Respondent placed a belt into her shopping bag which was caught
10 on surveillance video. When Respondent again entered Brighton Collectibles on July 25, 2006,
11 the manager engaged in conversation with Respondent until Simon Security arrived and she was
12 asked to leave the store. When Respondent asked why, the store manager told her, "We have you
13 on video." Respondent promptly left the store. Respondent is well known to all the sales persons
14 at both the Mission Viejo and Irvine Brighton Collectibles stores, because she has been suspected
15 of continual shoplifting for three years. Her method of personal gain is to steal like-items she has
16 previously purchased and return them using the receipt from the purchased items. When the
17 surveillance video was viewed for July 18, 2006, Respondent was seen placing items into a
18 medium, red and yellow "Brighton Collectibles" shopping bag. All witnesses identified
19 Respondent in the video surveillance tape. The dollar value of the loss is \$295. On August 8,
20 2006, the loss prevention officer told an investigating Orange County officer that there had been
21 an unusually high degree of returns that have been made by Respondent. The loss prevention
22 officer faxed a copy of the print out of Respondent's returns over the last 90 days and also
23 forwarded a picture of the belt that was stolen on July 21, 2006, to the officer.

24 d. The officer conducted a check of computer data bases for information on Respondent.
25 He found a match for Respondent that showed that she was on informal probation, with terms of
26 search and seizure, for two prior convictions for theft out of Orange County. On August 9, 2006,
27 investigators and the officer conducted a probation search of Respondent's residence. While the
28 search of the residence was conducted by the investigators, the officer spoke to Respondent and

1 recorded the conversation about the July 21, 2006, incident at the Brighton Collectibles Store in
2 Mission Viejo Mall. The officer explained that he had a video of what happened that day and
3 then showed Respondent three pictures of the incident that he had printed from the video. He
4 explained to Respondent that it is apparent that she has a problem with shoplifting. Respondent
5 said she had talked to her husband about seeking help for her shoplifting and is trying to get help.
6 The belt in question was recovered and later booked into evidence at the Sheriff's Substation at
7 Aliso Viejo.

8 FOURTH CAUSE FOR DISCIPLINE

9 (April 17, 2009, Conviction for Second Degree Commercial Burglary
and Petty Theft on January 12, 2009)

10 16. Respondent is subject to disciplinary action under sections 490 and 2761,
11 subdivision (f) in that Respondent was convicted of a crime that is substantially related to the
12 qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

13 a. On or about April 17, 2009, in a criminal proceeding entitled *The People of the State*
14 *of California v. Felicia Lucette Zion aka Felicia Lucette Mautz aka Felicia Lucette Clark*, in
15 Orange County Superior Court, Harbor Justice Center, case number 09HM01611 A, Respondent
16 was convicted on her guilty plea to violation of Penal Code sections 459-460, subdivision (b),
17 second degree commercial burglary, and violation of Penal Code sections 484, subdivision (a)
18 and section 488, petty theft.

19 b. Sentencing immediately followed whereby Respondent was ordered to serve 90 days
20 at Orange County Jail consecutive with time to be served for her conviction in with case number
21 06SF0931, which is outlined in the First Cause for Discipline, above, and to pay various fines and
22 fees. Respondent was allowed to serve time through supervised electronic confinement.

23 c. The circumstances that led to the conviction are that on January 12, 2009, at a Target
24 store in Aliso Viejo, an asset protection specialist observed Respondent take a Target bag out of
25 her purse and place it over a cordless phone package in her cart and also noticed another Target
26 bag filled with clothing items inside the cart. Respondent then went to Guest Services to return
27 the items inside the bags and was able to return the items except for the cordless phone.
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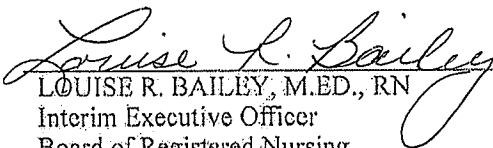
1 Respondent was able to obtain \$30.55 cash and a gift card valued at \$38.70. Respondent had
2 loose items in her cart that were not in bags and went to the cash register to purchase these items
3 with her gift card and cash she received from guest services. Respondent purchased a few of the
4 items in the cart, but covered various clothing items at the bottom of the cart with the new
5 purchases, which the cashier did not notice. When Respondent completed the transaction and
6 walked through the exit door the alarm sounded and the asset protection specialist detained her
7 without incident. An officer of the Orange County Sheriff's Department arrived. When
8 Respondent was asked why she took the items, she stated, "I have the money to pay for it. I want
9 to save some money. I am overwhelmed with bills and stuff. I was just trying to get ahead." The
10 officer arrested Respondent for commercial burglary and transported her to the Intake and
11 Release Center in Santa Ana for booking.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board of Registered Nursing issue a decision:

- 15 1. Revoking or suspending Registered Nurse License Number 395726, issued to
16 Felicia Lucette Zion aka Felicia Lucette Clark aka Felicia Lucette Mautz;
- 17 2. Revoking or suspending Public Health Nurse Certificate No. 41457, issued to
18 Felicia Lucette Zion aka Felicia Lucette Clark aka Felicia Lucette Mautz;
- 19 3. Ordering Felicia Lucette Zion to pay the Board of Registered Nursing the reasonable
20 costs of the investigation and enforcement of this case, pursuant to Business and Professions
21 Code section 125.3;
- 22 4. Taking such other and further action as deemed necessary and proper.

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24 DATED: 5/25/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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